STATE OF MICHIGAN

COURT OF APPEALS

SHEILA LOGAN,

Plaintiff-Appellant,

v

GLADSTONE ENTERPRISES, LTD., and LBS REALTY, INC.,

Defendants-Appellees.

UNPUBLISHED
June 8, 1999

No. 203927
Wayne Circuit Court
LC No. 96-612124 NO

Before: Markey, P.J., and Holbrook, Jr., and Neff, JJ.

PER CURIAM.

Plaintiff appeals as of right from a $1,747 judgment entered following a jury trial jury in this negligence action. Plaintiff was injured when she slipped and fell as she ascended some porch steps. The residence was owned by defendant Gladstone and managed by defendant LBS. We affirm.

Plaintiff argues that the trial court erred in refusing to allow medical bills into evidence. We disagree. Under MCR 2.313, a trial court has the authority to impose sanctions on a party for the failure to comply with discovery requests. MCR 2.313 "is broad enough to permit a trial court to exclude evidence if the court believes that such action is an appropriate remedy for violation of discovery practice." *Farrell v Automobile Club of Michigan*, 155 Mich App 378, 388; 399 NW2d 531 (1986). We will not reverse the trial court's decision to exclude evidence as sanctions for a discovery violation absent an abuse of discretion. *Id.*

Initially, we note that because resolution of this issue turns on plaintiff's responses to defendants' interrogatories, plaintiff should have provided us with copies of both the interrogatories and her responses. Her failure to do so means that the issue is not properly presented for review. MCR 7.212(C)(7). Nonetheless, we choose to review the merits of plaintiff's argument. Plaintiff asserts that she had no duty to supplement her answers to defendants' interrogatories regarding plaintiff's medical bills. She argues that under MCR 2.302(E), the duty to supplement only arises in certain specific circumstances, none of which are applicable in her situation.

While it is true that MCR 2.302(E)(1) states that a party has no duty to supplement unless one of four specific circumstances presents itself, the court rule also indicates that the general limitation on imposing a duty to supplement is applicable only where the response at issue "was complete when made." This language mirrors and complements MCR 2.309(B)(1), which states that "[e]ach interrogatory must be answered separately and fully in writing under oath." From what we have been able to glean from the record before us, plaintiff's answers to defendants' interrogatories concerning her alleged medical damages were far from complete.[1] Accordingly, we conclude that plaintiff's answers to defendants' interrogatories about medical bills should be treated as a failure to answer. MCR 2.313(A)(4). Under these circumstances, the trial court's decision to keep the medical bills out of evidence does not evidence an abuse of discretion.[2]

Plaintiff also contends that the trial court erred in denying her motion for additur or new trial as to damages where the evidence of plaintiff's closed head injury and loss of income was unrefuted. We disagree. "An appellate court should reverse the trial court's decision regarding a motion for additur . . . only if an abuse of discretion is shown." *Phillips v Deihm*, 213 Mich App 389, 404; 541 NW2d 566 (1995). "The proper consideration in granting or denying additur is whether the jury award is supported by the evidence." *Arnold v Darczy*, 208 Mich App 638, 640; 528 NW2d 199 (1995). The trial court's denial of a motion for new trial is also reviewed for an abuse of discretion. *Arnold*, *supra* at 640.

While defendants did not present experts to dispute plaintiff's medical diagnosis and income loss, defendants did attack the credibility of plaintiff's damage claims during cross-examination. Given the "trial court's superior ability to view the evidence and evaluate the credibility of the witnesses," *Phillips*, *supra* at 404, we defer to its decision on plaintiff's motion for additur. See *Weiss v Hodge*, 223 Mich App 620, 637; 567 NW2d 468 (1997). Additionally, as this Court noted in *Joerger v Gordon Food Service, Inc,* 224 Mich App 167, 173; 568 NW2d 365 (1997): "There is no legal requirement that a jury award damages simply because liability is found." Accordingly, we conclude that the trial court did not abuse its discretion in denying plaintiff's motion for new trial or additur.

Affirmed.

/s/ Jane E. Markey
/s/ Donald E. Holbrook, Jr.
/s/ Janet T. Neff

[1] For example, in plaintiff's response to defendants' emergency motion to compel plaintiff to attend an independent medical examination, plaintiff indicates that question thirty-two of defendants' interrogatories asked plaintiff to set forth "the amount of compensation to which you claim to be entitled as a result of such pain or physical suffering." Plaintiff responded: "My damages are still being evaluated."

[2] The record further indicates that plaintiff failed to provide the trial court with a good reason why the medical bills were not uncovered earlier in the case.